

March 28, 1978

Memo to File:

Re: ACT/039/006

On March 28th 1978, I talked with Fred Thompson, via telephone, at the Price Forest Service office to inquire about the legal status of Ferto's claims. The following information was supplied:

1. The USGS has determined that the ore is not lignite, but rather is a carbonaceous shale and sandstone. It is not leasable under the 1947 Mineral Leasing Act.
2. The claims may be under the Materials Act of 1947 which covers common materials saleable by the USFS. If the ore is a common material it will have to be bought by competitive bidding. To avoid this, Ferto must prove any one of the following which would bring the claims back under the Mining Law of 1872.
 - a. Show that a placer discovery of valuable mineral was made. A mineral value of the deposit must be shown to be of sufficient grade, quality, and minability to render the ground valuable for its mineral content.
 - b. Show that the whole rock properties are of such a nature that they give the ore a distinct and special value.
 - c. Show that the claims were valid and being operated before July 23rd 1955.

If Ferto fails to prove that the claims are exempt from the Materials Act of 1947, the claims will be invalidated. When the claims are found to be invalid, Ferto could be held in trespass and, in any case, is liable for damages.

As the mine is on USFS administered lands, the Division does not have the primary authority over the reclamation plan and must wait to receive a copy of the plan submitted to and approved by the USFS.

BRIAN W. BUCK
ENGINEERING GEOLOGIST

/tlb